

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA**

Timothy Dwayne Byrd,

Plaintiff,

vs.

Andrew M. Saul,
Commissioner of Social Security,

Defendant.

Civil Action No. 5:18-3001-RMG

ORDER

Plaintiff brought this action pursuant to 42 U.S.C. § 405(g) to obtain relief from the final decision of the Commissioner of the Social Security Administration denying him Disability Insurance Benefits (“DIB”) and Supplemental Security Income (“SSI”) under the Social Security Act. In accord with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 DSC, this matter was referred to a United States Magistrate Judge for pretrial handling. The Magistrate Judge issued a Report and Recommendation (“R & R”) on November 15, 2019, recommending that the Commissioner’s decision be affirmed. (Dkt. No. 20). Plaintiff filed objections to the R & R, and the Commissioner filed a reply (Dkt. Nos. 22, 24).

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of those portions of the R & R to which specific objection has been made, and may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge. 28 U.S.C. § 636(b)(1).

The role of the federal judiciary in the administrative scheme of the Social Security Act is a limited one. Section 405(g) of the Act provides that “[t]he findings of the Commissioner of Social Security as to any fact, if supported by substantial evidence, shall be conclusive.” 42 U.S.C. § 405(g). “Substantial evidence has been defined innumerable times as more than a scintilla, but less than preponderance.” *Thomas v. Celebrezze*, 331 F.2d 541, 543 (4th Cir. 1964). This standard precludes *de novo* review of factual circumstances that substitutes the Court’s findings for those of the Commissioner. *Vitek v. Finch*, 438 F.2d 1157 (4th Cir. 1971).

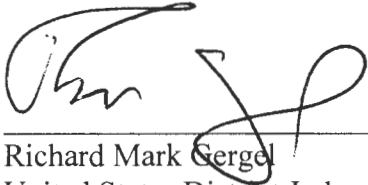
Although the federal court’s review role is limited, “it does not follow, however, that the findings of the administrative agency are mechanically accepted. The statutorily granted right of review contemplates more than an uncritical rubber stamping of the administrative action.” *Flack v. Cohen*, 413 F.2d 278, 279 (4th Cir. 1969). “[T]he courts must not abdicate their responsibility to give careful scrutiny to the whole record to assure that there is a sound foundation for the [Commissioner’s] findings.” *Vitek*, 438 F.2d at 1157-58.

Discussion

The Magistrate Judge, in a comprehensive and well-reasoned R & R, addressed each of the issues now the subject of Plaintiff’s objections and concluded that the Commissioner’s final decision complied with controlling legal standards and was supported by substantial evidence. The Magistrate Judge noted the conflicting nature of the evidence, which necessarily required the Administrative Law Judge to weigh the evidence, make determinations regarding credibility, and reach conclusions. This is quintessentially the role of the fact finder. Further, contrary to the argument of Plaintiff, there was sufficient evidence that the Administrative Law Judge received and considered the newly submitted evidence. The Court made an careful review of the

evidence submitted after the first and before the second administrative hearing, including the office record of Dr. Eric Lehehan and the MRI of the lumbar spine of January 23, 2018, referenced by Plaintiff. A review of the full record makes clear that there is substantial evidence in the record to support the findings of the Administrative Law Judge, a conclusion also reached by the Magistrate Judge. Under such circumstances, the Court is obligated to affirm the decision of the Commissioner. Therefore, the Court **ADOPTS** the R & R of the Magistrate Judge (Dkt. No. 20) as the order of this Court and **AFFIRMS** the decision of the Commissioner.

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Judge

December 16, 2019
Charleston, South Carolina